

**REMARKS**

In the Office Action mailed December 26, 2007, the Examiner noted that claims 22, 23, 25 and 26 were pending and rejected claims 22, 23, 25, and 26. Claims 22, 23, 25 and 26 have been amended, no claims have been canceled, no new claim has been added; and, thus, in view of the foregoing claims 22, 23, 25 and 26 remain pending for reconsideration which is requested. No new matter is believed to have been added. The Examiner's rejections are respectfully traversed below.

**REJECTIONS under 35 USC § 101**

The Office Action, on page 2, rejected claims 23, 23, 25 and 26 under 35 U.S.C. § 101 for being directed to non-statutory subject matter. Particularly, the Office Action, on page 3, asserted that claims 25 and 26 are allegedly directed to attributes of a human being, which is not patentable subject matter. However, claim 25 has been amended to recite "a mobile terminal ... adapted to being held by a user" to overcome the rejection. Claim 26 has been amended to recite a similar feature as amended claim 25.

Moreover, the Office Action, on page 3, asserted that claims 25 and 26 are hybrid claims because they are allegedly directed to neither a process nor a machine. However, claims 25 and 26, as amended, are directed to a machine, which is one of the four statutory categories under 35 U.S.C. § 101.

Contrary to the Examiner's assertion these claims recite actions or functions performed by the apparatus elements of the claims. And as noted by the court and the MPEP, such recitations are clearly acceptable (A functional limitation is an attempt to define something by what it does, rather than by what it is, e.g. as evidenced by its specific structure or specific ingredients). There is nothing inherently wrong with defining some part of an invention in functional terms. Functional language does not, in and of itself, render a claim improper. See *In re Swinehart*, 439 F.2d 210, 169 USPQ 226 (CCPA 1971). A functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used. A functional limitation is often used in association with an element, ingredient, or step of a process to define a particular capability or purpose that is served by the recited element, ingredient or step. See MPEP 2173.05(g) Functional Limitations).

Therefore, it is submitted that claims 25 and 26 satisfy the requirements of 35 U.S.C. § 101. Further, claims 22 and 23 also satisfy the requirements of 35 U.S.C. § 101, by virtue of their dependencies from their respective base claims.

#### **REJECTIONS under 35 USC § 112**

The Office Action, on page 3, rejected claims 22, 23, 25 and 26 under the second paragraph of 35 U.S.C. § 112 for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 22 and 23 have been amended to recite “a processing device” to overcome the rejection for insufficient antecedent basis.

Further, claims 25 and 26 were rejected for being indefinite. However, claims 25 and 26 have been amended to overcome the rejection.

Therefore, it is submitted that claims 22, 23, 25 and 26 satisfy the requirements under the second paragraph of 35 U.S.C. § 112.

#### **REJECTIONS under 35 USC § 102**

The Office Action, on page 5, rejected claims 22, 23, 25 and 26 under 35 U.S.C. § 102(e) as being anticipated by Swartz et al. (U.S. Publication No. 2003/013298, hereinafter “Swartz”).

Swartz is related to a marketing and shopping system that includes a portable data terminal that receives and displays messages related to products that are being offered for sale (see paragraph [0002], of Swartz). According to Swartz, as a customer enters the store, the customer is provided with a portable RF device to read bar-codes of goods to be purchased and the RF transmits the read information to the Point-of-Sale terminal (see Fig. 4, of Swartz).

However, it is submitted that claim 25 is patentable over Swartz, as Swartz fails to disclose, either expressly or implicitly, at least the features recited below:

- a second communication unit for communicating with said mobile terminal;
- a third communication unit for communicating with said reader; and
- a second controller connected to said second and third communication units and calculating goods settlement information from said read goods information through said third communication unit and processing the settlement in response to a prompt from a settlement key in accordance with authorization of said user, and sending said goods settlement information to said mobile terminal in response to a prompt from the settlement key of said goods settlement information through said second communication unit,
- wherein the mobile terminal temporarily stores the goods purchase information in said memory

(claim 25, lines 8-17).

As illustrated in Fig. 1 of Swartz, portable terminals 12A, ... 12E communicate to a central host 14 through multi-access points 13A and 13B (see paragraph [0060], of Swartz). However, the multi-access points 13A and 13B, as described in Swartz, fail to disclose the "second communication unit" and the "third communication unit", as recited in claim 25, because the multi-access points 13A and 13B communicate with the portable terminals rather than communicating with a "mobile terminal" and a "reader", as in claim 25.

Further, according to Swartz, the central host retrieves data, processes information, and retransmits the data to the portable terminal (see paragraph [0061], of Swartz). However, the central host, as described in Swartz, fails to disclose "a second controller", because central host is merely concerned with receiving, processing, and retransmitting data instead of "calculating goods settlement information from said read goods information ... processing the settlement in response to a prompt from a settlement key ... and sending said goods settlement information to said mobile terminal" as required by claim 25.

Therefore, in light of the above, claim 25 is patentable over Swartz.

Claim 26 recites

a second communication unit for communicating with said mobile terminal;

a third communication unit for communicating with said register terminal; and

a scanner controller sending a send enable signal to said mobile terminal when said reader reads a barcode of said goods, receiving a receive signal from said mobile terminal according to said send enable signal through said second communication unit, requesting said goods purchase information to said register terminal in response to said received signal, and receiving said goods purchase information from said register terminal through said third communication unit, and wherein said scanner controller sends said received goods purchase information to said mobile terminal through said second communication unit, and the mobile terminal temporarily stores the goods purchase information in a memory

(claim 26, lines 8-18). Therefore, it is submitted that claim 26 is patentable over Swartz for reasons similar to those discussed above with respect to claim 25.

The dependent claims are also patentable over Swartz for at least the same reasons as their respective base claims, from which they depend.

Accordingly, withdrawal of the rejection is respectfully requested.

## SUMMARY

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. Further, all pending claims patentably distinguish over the prior art. There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If any further fees, other than and except for the issue fee, are necessary with respect to this paper, the U.S.P.T.O. is requested to obtain the same from deposit account number 19-3935.

Respectfully submitted,

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Date: May 27, 2008

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